

CHAPTER 93
ONSITE WASTEWATER TREATMENT SYSTEM ASSISTANCE PROGRAM

567—93.1(455B,79GA,SF479) Purpose. The department of natural resources administers the state revolving fund for wastewater projects as provided by Iowa Code sections 455B.291 to 455B.299. The primary purpose of the wastewater state revolving fund is to provide loans at a below-market rate to municipalities for the construction of wastewater treatment facilities. The rules governing such loans are provided in 567—Chapter 92. Grants provided under Title VI of the federal Clean Water Act are used to capitalize the fund.

In addition to direct loans to municipalities, Section 603(c) of Title VI of the Clean Water Act allows states to use Title VI capitalization grant funds to assist the state in its implementation of a nonpoint source management plan as provided for in Section 319 of the Clean Water Act. Iowa's nonpoint source management plan identifies the rehabilitation and improvement of onsite wastewater treatment systems as an area of need. It is the intent of the environmental protection commission that a portion of the Title VI capitalization grant funds be used to establish a program for the purpose of making low-interest loans available for rural homeowners who need to rehabilitate or improve existing onsite wastewater treatment systems.

This chapter establishes an onsite wastewater treatment system assistance program intended to encourage and assist homeowners in improving or rehabilitating existing onsite wastewater treatment systems by providing for low-interest loans. This chapter is intended to implement 2001 Iowa Acts, Senate File 479.

567—93.2(455B,79GA,SF479) Definitions. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

“Cluster systems” means onsite wastewater treatment systems providing treatment for two or more dwellings with a combined flow not to exceed 1500 gallons per day.

“Department” means the department of natural resources (DNR).

“Director” means the director of the department of natural resources or a designee.

“Financial agent” means the entity or entities that have entered into a contract with the department to carry out the financial administration of the fund.

“Lending institution” means any bank, bank holding company, national banking association, savings and loan association, or life insurance company; any state or federal government agency or instrumentality; or any other financial institution or entity authorized to make loans in the state of Iowa.

“Loan agreement” means an executed contract between an individual and the participating lending institution which confirms the purpose of the loan, the amount and terms of the loan, the schedule of the loan payments and requirements, and any other agreed-upon conditions set forth by the director.

“Onsite wastewater treatment system,” “onsite treatment system” or “onsite system” means the same as “on-site wastewater treatment and disposal system” as defined in rule 567—69.2(455B).

567—93.3(455B,79GA,SF479) Onsite wastewater assistance fund. The onsite wastewater assistance fund (OSWAF) is a separate fund within the state treasury. The OSWAF is a revolving loan fund used to provide low-interest loans to homeowners for improving and rehabilitating onsite wastewater treatment systems and consists of two accounts: a financing account and an administration account. Funds deposited in the OSWAF consist of state-appropriated funds, annual capitalization grants provided under Title VI of the federal Clean Water Act, loan repayments, interest accrued on funds, and all other moneys specifically designated for use in the OSWAF. The portion of annual Title VI grants to be used for the OSWAF is identified in the annual intended use plan as provided in 567—paragraph 92.6(2)“c.” Of all moneys deposited in the OSWAF annually, no more than 4 percent shall be credited to the administration account.

567—93.4(455B,79GA,SF479) Eligibility and restrictions for participation in the onsite wastewater treatment system assistance program. Assistance under the onsite wastewater treatment system assistance program shall be in the form of low-interest loans made by participating lending institutions. The following eligibility conditions and restrictions apply to such assistance.

93.4(1) Location restrictions. Assistance is available for the improvement or rehabilitation of onsite wastewater treatment systems located outside of corporate boundaries. Assistance cannot be provided for onsite improvements or rehabilitation located within incorporated limits.

93.4(2) County eligibility. Assistance can be provided only for systems located in counties that have an environmental health program meeting minimum standards for onsite sewage systems. The department shall maintain for public record a list of all counties meeting such standards. At a minimum, counties must carry out statutory responsibilities as provided in Iowa Code section 455B.172 as well as provide for the following measures. The department will adopt guidance in cooperation with county boards of health to evaluate the adequacy of county programs.

a. Proper site evaluations to determine the appropriate design and size of onsite wastewater treatment systems prior to permitting and installation.

b. Inspection of onsite systems by a qualified inspector at the time of renovation or construction.

c. Enforcement of existing monitoring requirements, according to rule 567—69.2(455B), for existing, permitted onsite systems with secondary treatment which discharge above ground, such as those authorized by NPDES General Permit No. 4.

d. Assurance of regular system maintenance and monitoring for the life of the loan for those systems receiving assistance under the onsite wastewater systems assistance program.

93.4(3) Eligible project costs. The amount of assistance available shall be limited to the total costs deemed necessary, reasonable, and directly related to the repair, rehabilitation, or replacement of an onsite treatment system needed to meet state or local standards for onsite systems. Eligible costs include all costs directly related to the design, permitting and construction of the onsite wastewater treatment system. Eligible costs include the removal of existing structures, such as septic tanks, earth moving or any land purchases directly related to proper wastewater treatment. Eligible costs do not include additional earthwork, reseeded, replanting, or any other aesthetic improvements. Maintenance or monitoring costs are not considered eligible costs. Eligible costs must be incurred within one year of the issuance of the onsite construction permit by the county.

93.4(4) Applicant eligibility. Assistance is limited to homeowners who own the property on which the onsite system is located and who demonstrate to the satisfaction of the participating lending institution that the homeowners can repay the loan.

93.4(5) Project eligibility. Assistance can be provided only for the repair, rehabilitation, or replacement of existing onsite wastewater treatment and distribution systems. Assistance is not available for new housing. A system serving an equivalent of 16 individuals or more (with an average daily flow of 1500 gallons or more) is considered a public system (requiring permitting by the DNR) and is not eligible under this program.

93.4(6) Property eligibility. As a qualification of eligibility for the loan program, the department may set a limit on the assessed valuation of the dwelling or building served by the onsite wastewater system needing renovation.

567—93.5(455B,79GA,SF479) Participating lending institutions. Any lending institution as defined in rule 93.2(455B,79GA,SF479) is eligible to participate in the program by signing an agreement with the department or its financial agent. The agreement will contain the responsibilities of the department to the participating lending institution and vice versa as well as relevant loan conditions and restrictions. The department will provide the format of the agreement. The department or its financial agent will maintain for public record a list of participating lending institutions.

93.5(1) Responsibilities of the department to participating lending institutions. For participating lending institutions, the department or its financial agent will:

a. Provide materials such as pamphlets, brochures, loan application forms and other relevant materials necessary to inform homeowners about the program and to assist lenders in completing the loan process.

b. The state and the department are not liable to an eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible borrower.

c. Ensure the timely transfer of funds in accordance with the terms and conditions set forth in the agreement between the department and the lending institution.

93.5(2) Responsibilities of participating lending institutions to the department or its financial agent. The responsibilities of participating lending institutions include:

a. Making a determination of whether a loan can be secured.

b. Rendering a judgment on the applicant's ability to repay the loan.

c. Approving or denying the loan application. The lending institution may approve a loan agreement when it is determined that the application complies with the requirements of this chapter. The loan agreement between the applicant and the lending institution shall be a binding obligation under Iowa law and shall include loan terms and conditions for the loan period.

d. Notifying the department or its financial agent of a loan to reserve funds for the onsite system improvements funded by the loan.

e. Notifying the department or its financial agent when the onsite system improvements funded by the loan are completed and inspected. The department or its financial agent will then make a linked deposit equal to the amount of the loan in the form of a certificate of deposit to the lending institution. The lending institution will then service the loan with the linked deposit.

f. Notifying the department when a loan is in default, after a reasonable attempt has been made for 90 days to collect delinquent payments.

567—93.6(455B,79GA,SF479) Onsite wastewater assistance fund financial agent. To assist the department in administering the onsite wastewater treatment system assistance program, the department may appoint a financial agent responsible for managing the funds in the OSWAF. The responsibilities of the financial agent shall be provided in an agreement between the department and the agent. The responsibilities of the financial agent may include:

1. Developing a management plan for the OSWAF. The management plan shall determine how the fund will be managed to provide the lowest interest loans while maintaining financial security and ensuring the perpetuity of the fund. Included in the management plan shall be the methods and terms for transfer of funds from the OSWAF to participating lending institutions and repayment of funds thereto.

2. Reserving loan funds equal to the amount of the loan as each loan is approved by participating lending institutions.

3. Distributing funds to lending institutions as stipulated in agreements with lending institutions.

4. Acting as liaison between the department and the lending institutions.

5. Maintaining for public record a list of participating lending institutions.

6. Reporting financial information pertaining to the OSWAF.

567—93.7(455B,79GA,SF479) Applying for assistance. Prior to applying for a loan from a participating lending institution, an eligible individual or entity must receive approval of the proposed improvements from the county in which the onsite wastewater treatment system is located.

93.7(1) County requirements for individual applicants. Applicants requesting county approval shall submit forms provided by the county which include:

a. A description of the type and general specifications of the proposed work.

- b. Project cost estimate(s).
- c. A proposed construction schedule.

93.7(2) County requirements for cluster system applicants. Applicants seeking financial assistance for cluster systems using onsite technology must include with their application to the county:

- a. A description, if available, of each participating property owner's current onsite wastewater treatment system, including a discussion of existing and potential problems or failures in the current treatment scheme.
- b. An estimate of the population and number of households to be served.
- c. A rationale for the proposed design of the new treatment system.
- d. Descriptions of the management entity and program.

93.7(3) County review. The county shall review applications to determine if the proposed work meets the applicable provisions of 567—Chapter 69 and all other relevant local provisions for the siting and construction of onsite wastewater treatment and distribution systems. For proposals meeting relevant criteria, the county shall issue a permit or certificate indicating such. The county permit or certificate shall be accompanied by a cost estimate and proposed construction schedule. A county may deny an application for reasons of noncompliance with applicable state and local criteria. Written notification of the denial shall be provided to the applicant and shall state the reason(s) that the application was denied.

93.7(4) Lender requirements for applicants. The applicant for a loan shall submit to a participating lending institution an application form as prescribed by the department of natural resources or deemed acceptable by the department's financial agent. Also, the applicant shall include a copy of the county permit or certificate approving the proposed project. The applicant is obligated to provide any other specific information the lender may deem necessary.

93.7(5) Loan application processing and disbursement of funds. The process for awarding and managing loans shall be in full accordance with the terms established by the department or its financial agent(s) and the provisions of this chapter.

a. *Loan approval or disapproval.* Upon receipt of a completed loan application form with relevant information as described in 93.7(4), the participating lending institution shall either approve or deny the loan within ten working days. The lending institution shall notify the applicant of loan conditions and limitations at the time of initial application. Before acting on the loan application, the lending institution shall ensure that adequate OSWAF funds are available. If the loan is approved, the lending institution shall (1) notify the loan applicant in writing that the loan has been approved and (2) notify the department's financial agent within two working days of approval of the loan application in order to reserve funds in that amount to ensure that adequate funds are available at time of disbursement. If the loan is denied, the lending institution shall notify the loan applicant in writing, clearly stating the reasons for denial. Reasons for denial may include that funds are not available or that the applicant presents an unacceptable level of loan risk.

b. *Disbursement of funds.* Upon completion of the onsite wastewater treatment system improvements, the loan applicant shall furnish the lender with (1) copies of all bills relating to the costs of the improvements which were preapproved on the loan application as specified in 93.4(3), and (2) certification from the county that the improvements were accomplished in accordance with the approved plans and meet relevant state and local requirements for onsite wastewater treatment systems. The loan shall be subject to the conditions and limitations provided in 93.7(6). If actual costs are less than the amount requested on the loan application, then the actual loan amount will equal those costs. The lending institution is authorized to execute a loan for a principal of up to 10 percent above the amount of the loan application if costs exceed the application amount. In this case, the loan applicant shall provide the lending institution with a written explanation for any cost overruns.

93.7(6) *Loan conditions and limitations.*

a. Loan amount and period. The minimum loan granted under this program shall be \$2,000. The maximum loan that a participant may receive for a single onsite system pursuant to this program shall not exceed \$10,000. The loan period shall not exceed ten years. Loans shall be made contingent on the availability of funds from the OSWAF.

b. Number of loans. There will be no limit to the number of loans an applicant can receive, except that an applicant shall be eligible for no more than \$10,000 in loans outstanding. For example, a borrower with multiple loans on multiple dwellings will be limited to \$10,000 outstanding at any time. In addition, in the event that a borrower's onsite system fails and the borrower needs to reapply for a loan to replace the failed system, that borrower will be limited to \$10,000 outstanding at any time. Each approved application will be handled as a new loan.

c. Loan execution. The loan agreements to be executed by the applicant and the lending institution shall (1) be a binding obligation under Iowa law, (2) include conditions and terms to be effective for the loan period, and (3) be accompanied by evidence of satisfactory security, legality, and enforceability.

d. Eligible costs. All costs directly related to the design, permitting, construction, and financing of the onsite wastewater treatment system are eligible for loans. Eligible costs include the removal of existing structures, such as abandoned septic tanks, earth moving or any land purchases directly related to proper wastewater treatment. Eligible costs do not include additional earthwork, reseeding, replanting, or any other aesthetic improvements. Maintenance or monitoring costs will not be allowed as part of the loan. Eligible costs must be incurred within one year of the issuance of the septic construction permit.

e. Recipient record keeping. The loan recipient shall maintain adequate records that document all costs associated with the project. The loan recipient shall agree to provide access to these records to the department, the state auditor, the EPA SRF project manager, and the Office of the Inspector General at the Environmental Protection Agency. The loan recipient shall retain all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

f. Site access. The loan recipient shall agree to provide the department and the administrative authority access to the construction site to verify that the loan was used for the purpose intended and that the constructed works meet applicable state and local environmental requirements and ordinances for onsite wastewater treatment systems. The loan recipient also shall agree to provide access to the onsite system for periodic monitoring by the department and administrative authority, at times mutually agreed upon with the system owner, for the duration of the loan.

g. Loan termination. The department or its financial agent(s) shall have the right to terminate any loan when terms of the agreement have been violated.

h. Repayment. Loans shall be repaid in accordance with the terms and conditions of the executed loan agreement. Repayment of the loan must begin no later than 30 days after the date specified in the selected repayment schedule.

i. Interest. The loan interest rate shall not exceed 3 percent per year. The actual interest rate charged shall be in accordance with the participating lending institution's agreement with the department or its financial agent.

j. Prepayment. Prepayment of the principal in whole or in part shall be allowed without penalty.

k. Property transfer. In the event of a property transfer from the original landowner who secured the loan to another person or entity during the repayment period specified in the loan agreement, the balance of the loan shall be due in full.

l. Loan delinquency. Failure of the loan recipient to repay the loan in accordance with the schedule contained in the loan agreement will result in the loan's being declared in default. For a loan delinquent more than 90 days, the interest rate shall accelerate immediately to the current legal usury limit, shall be applied to the entire unpaid principal, and shall be prorated for the period for which the installment is delinquent.

567—93.8(455B,79GA,SF479) Rectification. Failure of an onsite wastewater treatment system to conform to approved plans and specifications or failure of a loan recipient to comply with the requirements of 567—Chapter 69 constitutes grounds for the administrative authority to withhold authorization of loan disbursements to the loan recipient. The loan recipient is responsible for ensuring that the identified problem is rectified. Once the deficiency is corrected, the loan funds can be released.

567—93.9(455B,79GA,SF479) Disputes with the administrative authority. A person or entity that disagrees with the withholding of loan funds may request a formal review of the action. The person or entity must submit a request for review in writing to the director within 30 days of the date of notification action.

567—93.10(455B,79GA,SF479) Priority allocation of funds and intended use plan. The department shall, on an annual basis, prepare a plan describing the amount of funding available for loans under the program for the coming state fiscal year. The plan shall also identify those counties qualified to participate in the program and provide an estimate of the loan funds needed in those counties within the coming year. To the extent that the pool of funds available for lending involves funds granted under Title VI of the federal Clean Water Act, this plan shall be incorporated into the annual intended use plan authorized in 567—Chapter 92.

567—93.11(455B,79GA,SF479) Availability of funds. In the initial year of operation and thereafter, funds for loans shall be made on a first-come, first-served basis. The department's financial agent shall notify all participating lending institutions when 90 percent of the available funds for the current state fiscal year have been used and shall also notify such when all funds have been exhausted.

567—93.12(455B,79GA,SF479) Targeted assistance. Notwithstanding rule 93.11(455B,79GA, SF479), the department may reserve up to 50 percent of the annual available funds for use in targeted areas. Such targeted areas may include impaired watersheds, high-density housing areas, agricultural drainage areas, or other environmentally sensitive or degraded areas where the repair and rehabilitation of onsite wastewater treatment systems are needed to preserve and protect water quality. The annual use plan shall specify the need for targeted assistance, the areas covered, and the estimate of funds needed to address the water quality problems.

These rules are intended to implement 2001 Iowa Acts, Senate File 479.

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CHAPTERS 94 to 99
Reserved